

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MICHAEL GARRISON,

Plaintiff,

v.

Case Number 09-14560-BC
Honorable Thomas L. Ludington
Magistrate Judge R. Steven Whalen

MICHIGAN DEPARTMENT OF
CORRECTIONS, CORRECTIONAL
MEDICAL SERVICES, BRUCE CURTIS,
JUDY COTTON, JUDITH DAOUST, D.
SMITH, SHERRIE ROBBINS, STANLEY, P.
LEWIS, JAMES ROTH, R. STEPHENS,
MARIBETH ZELLER, DEBBIE
RUSS,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING
DEFENDANTS DAOUST, CORRECTIONAL MEDICAL SERVICES, AND RUSS'S
MOTION TO DISMISS OR FOR SUMMARY JUDGMENT, AND DISMISSING WITH
PREJUDICE PLAINTIFF'S CLAIMS AGAINST DEFENDANTS DAOUST,
CORRECTIONAL MEDICAL SERVICES, AND RUSS**

This matter is before the Court on a report and recommendation [Dkt # 141] issued by Magistrate R. Steven Whalen on February 28, 2010. The report and recommendation addresses the motion to dismiss or for summary judgment filed on April 9, 2009, by Defendants Judith Daoust, Correctional Medical Services ("CMS"), and Debbie Russ [Dkt. # 82]. While the report and recommendation also addresses the claims of another prisoner, Matthew Catanzaro [case no. 08-11173] this Court's order addresses only Plaintiff Garrison's claims and the portion of the report and recommendation applicable to Plaintiff Garrison's claims. While Plaintiff Garrison and Matthew Catanzaro initially filed a joint complaint, the Court severed Plaintiff Garrison and Matthew

Catanzaro's claims and directed the Clerk of the Court to assign a new case number to Plaintiff Garrison's claims on November 19, 2009. As identified in the caption of this document, the case number assigned to Plaintiff Garrison is 09-14560.

The magistrate judge recommends that Defendants Daoust, CMS, and Russ's motion to dismiss or for summary judgment be granted as to Plaintiff Garrison because Plaintiff Garrison's allegations do not amount to "deliberate indifference" to a "serious" medical need within the meaning of the Eighth Amendment. As of today's date, no party has filed any objections to the magistrate judge's report and recommendation. The election to not file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Nonetheless, the Court agrees with the conclusion reached by the magistrate judge.

The Court also notes that mail returned to the Court as undeliverable indicates that Plaintiff Garrison was released on parole on February 9, 2010. In light of the fact that Plaintiff Garrison has not provided a current address to the Court, the Court has continued to mail documents to Plaintiff Garrison at the most recently provided address and mail has continued to be returned as undeliverable. Plaintiff Garrison is obligated to promptly inform the Court of changes to his contact information, *see* E.D. Mich. LR 11.2, and the fact that he has not done so does not justify delaying resolution of the motion that he is aware has been pending since April 9, 2009.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [Dkt. # 141] is **ADOPTED** as it pertains to Plaintiff Garrison.

It is further **ORDERED** that Defendants Daoust, CMS, and Russ's motion to dismiss or for summary judgment [Dkt. # 82] is **GRANTED** as it pertains to Plaintiff Garrison, and that Plaintiff

Garrison's claims against Defendants Daoust, CMS, and Russ are **DISMISSED WITH PREJUDICE**.

It is further **ORDERED** that the Clerk of the Court is **DIRECTED** to update the status of Defendants Daoust, CMS, and Russ to "terminated" on the docket, to terminate the pending motion [Dkt. # 82] on the docket, and to terminate the report and recommendation [Dkt. # 141] on the docket; and that resolution of the motion and report and recommendation in this case [09-14560] does not affect the motion or report and recommendation pending in Matthew Catanzaro's case [08-11173].

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: April 22, 2010

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 22, 2010.

s/Tracy A. Jacobs
TRACY A. JACOBS